

REVISED 9/12/06
ORDINANCE NO. 27841

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING
TITLE 12 OF THE SAN JOSE MUNICIPAL CODE TO ADD
CHAPTER 12.19 TO REQUIRE AN ELECTED OFFICIAL
TO FILE QUARTERLY DISCLOSURE STATEMENTS
REPORTING THE TIME SPENT ON, AND THE INCOME
EARNED FOR SERVICES RENDERED, THAT ARE
UNRELATED TO THE DUTIES OF OFFICE**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Title 12 of the San José Municipal Code is hereby amended to add a new chapter, to be numbered, entitled and to read as follows:

**CHAPTER 12.19
INCOME AND TIME DISCLOSURE
Part 1
Purpose and Interpretation**

12.19.010 Purpose

The purposes of this Chapter are to (1) provide disclosure of the time spent by elected officials in rendering services unrelated to their duties of office for which the elected official is compensated so that the public is informed of these activities; and (2) to avoid actual and apparent conflicts of interest that result from income earned by the elected official for these services.

12.19.020 Interpretation

Except as otherwise provided in this Chapter, the terms and provisions of this Chapter shall be interpreted in accordance with the applicable definitions and provisions of the

Political Reform Act of 1974, Government Code Section 81000 et seq., as amended, and the regulations of the California Fair Political Practices Commission, as amended.

Part 2

Definitions

12.19.200 Definitions

The definitions set forth in this Part shall govern the application and interpretation of this Chapter.

12.19.210 Business Entity

“Business Entity” means any organization or enterprise including, but not limited to, a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, association, or nonprofit organization, if the Business Entity or any parent, subsidiary, or otherwise related Business Entity has an interest in real property in San José, or does business or plans to do business or has done business in San José at any time during the two (2) years prior to the date the Disclosure Statement is required to be filed.

12.19.220 Business Position

“Business Position” means a position in any Business Entity in which the Elected Official is a director, officer, partner, trustee, employee, or holds any position of management

12.19.230 Governmental Agency

“Governmental Agency” includes a state, local, or federal government agency.

12.19.240 Income

“Income” for the purposes of this Chapter shall mean payment earned for services rendered that are unrelated to the duties of office. Income may include, but not be limited to, salary, wages, tips, professional fees, commissions, contingency fees, success fees, bonuses or awards. The income shall be the gross amount earned before deducting losses, expenses, taxes, or amounts reinvested in a Business Entity. Income shall not include any interest in the community property of a spouse or property of a registered domestic partner.

12.19.250 Disclosure Statement

“Disclosure Statement” means the report specified in Section 12.19.320 of this Chapter.

12.19.260 Elected Official

“Elected Official” means any of the members of the City Council including the Mayor.

12.19.270 Filing Date

“Filing Date” means the fifteenth (15th) day of the month following the last day of the Reporting Period. If the Filing Date is a weekend day or a holiday, the Filing Date shall be the next day on which the City Clerk’s Office is open to conduct business.

12.19.280 Reporting Period

“Reporting Period” means each calendar month. The first Reporting Period under this Chapter shall commence on September 1, 2006.

12.19.290 Reporting Year

“Reporting Year” means the twelve (12) calendar months of each year except that the first Reporting Year shall commence on September 1, 2006 and shall conclude on December 31, 2006. Each Reporting Year thereafter shall commence on January 1 and shall conclude on December 31.

Part 3

Disclosure, Reporting Requirements

12.19.300 Disclosure Requirement

Each Elected Official shall file the Disclosure Statement required in Section 12.19.320 on a monthly basis.

12.19.310 Filing Officer

The City Clerk shall be the Filing Officer for the Disclosure Statement and will be responsible for the preparation of the forms and explanatory materials.

12.19.320 Reporting Requirements

- A. Each Elected Official shall file each month a Disclosure Statement that includes the information specified in this Section with the Filing Officer. The Disclosure Statements filed pursuant to this Chapter shall be public records.
- B. Each monthly Disclosure Statement shall include the following information:
 - 1. Name of the Elected Official;

2. The Reporting Period;
3. Number of hours during the Reporting Period that the Elected Official has rendered services unrelated to his or her duties of office for which he or she has earned Income;
4. Identification of the Business Entity, Governmental Agency, or trust; brief description of the nature of the services; and, if applicable, identification of the Business Position the Elected Official held with the Business Entity, and if applicable, the position with the Governmental Agency or trust;
5. Identification of the amount of Income earned in the Reporting Period from each Business Entity, Governmental Agency, or trust in the following ranges: (a) less than five hundred dollars (\$500); (b) at least five hundred dollars (\$500) but did not exceed one thousand dollars (\$1,000); (c) greater than one thousand dollars (\$1,000) but did not exceed ten thousand dollars (\$10,000); (d) greater than ten thousand dollars (\$10,000) but did not exceed one hundred thousand dollars (\$100,000); or (e) greater than one hundred thousand dollars (\$100,000);
6. Each Business Entity with whom the Elected Official has a Business Position, or if applicable, each Governmental Agency or trust with whom the Elected Official has a position, and has earned five hundred dollars (\$500) or more in Income for services rendered. If the Income earned is less than five hundred dollars (\$500) in any Reporting Period but subsequently aggregates to or exceeds five hundred dollars (\$500) within the Reporting Year, the Elected Official shall list the name of the Business Entity, Governmental Agency, or trust in the Disclosure Statement for the Reporting Period when the total Income aggregates to or exceeds five hundred dollars (\$500), and for each subsequent Reporting Period of that Reporting Year;

7. Each source of income to the Business Entity with whom the Elected Official has a Business Position if the Elected Official's pro rata share of gross receipts to the Business Entity is ten thousand dollars (\$10,000) or more. If the Income received is less than ten thousand dollars (\$10,000) in any Reporting Period but subsequently aggregates to or exceeds ten thousand dollars (\$10,000) within the Reporting Year, the Elected Official shall list the name of the source of income in the Disclosure Statement for the Reporting Period when the total income aggregates to or exceeds ten thousand dollars (\$10,000), and for each subsequent Reporting Period of that Reporting Year. The reporting requirement of this Section is not intended to require the disclosure of the identity of a single source of income if such disclosure would violate federal or state law; and
 8. If identification of a single source of income under Subsection (7) would violate a legally recognized privilege or privacy interest under federal or California law, the Elected Official shall file, in a separate document, with respect to each undisclosed person, the basis for assertion of the privilege or privacy interest and, as specifically as possible without defeating the privilege or privacy interest, facts which demonstrate why the privilege or privacy interest is applicable. The Elected Official shall also state, with respect to each undisclosed source of income, that to the best of the Elected Official's knowledge that he or she will not make, participate in making, or in any way attempt to use an official position to influence a governmental decision if doing so would be a violation of the Political Reform Act of 1974, Government Code Section 81000, et seq., as amended.
- C. The Elected Official shall sign and date the Disclosure Statement under penalty of perjury.

- D. The Elected Official shall file each Disclosure Statement with the Filing Officer no later than the Filing Date.

12.19.330 Enforcement

Enforcement of this Chapter shall be through the San José Elections Commission pursuant to the procedures set forth in Chapter 12.04, as amended.

SECTION 2. Retroactive Application.

It is the intent of the City Council that this Chapter be applied retroactively. The first Reporting Period shall commence on September 1, 2006. Each Elected Official shall file his or her Disclosure Statement for the first Reporting Period with the Filing Officer no later than October 16, 2006.

PASSED FOR PUBLICATION of title this 29th day of August, 2006, by the following vote:

AYES:	CAMPOS, CHAVEZ, PYLE, REED, WILLIAMS, YEAGER; GONZALES
NOES:	CHIRCO, CORTESE, LeZOTTE, NGUYEN
ABSENT:	NONE
DISQUALIFIED:	NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk